

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

P0033870.00 / 41914.710

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Signature /Gayle Conner/

Typed or printed name Gayle Conner

Application Number

10/776,209

Filed

February 12, 2004

First Named Inventor

Lawrence Green

Art Unit

3754

Examiner

Cartagena, Melvin A.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

/Julie M. Nickols/

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

Signature

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Typed or printed name

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Registration number 50,826

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☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

June 15, 2011

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	§	
Lawrence Green et al.	§	Docket No.: P0033870.00 / 41914.710
	§	
Application No.: 10/776,209	§	Group Art Unit: 3754
	§	
Filed: February 12, 2004	§	Examiner: Cartagena, Melvin A.
	§	
For: Manual Pump Mechanism and	§	Confirmation No.: 3160
Delivery System	§	

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**REMARKS ACCOMPANYING PRE-APPEAL
BRIEF REQUEST FOR REVIEW**

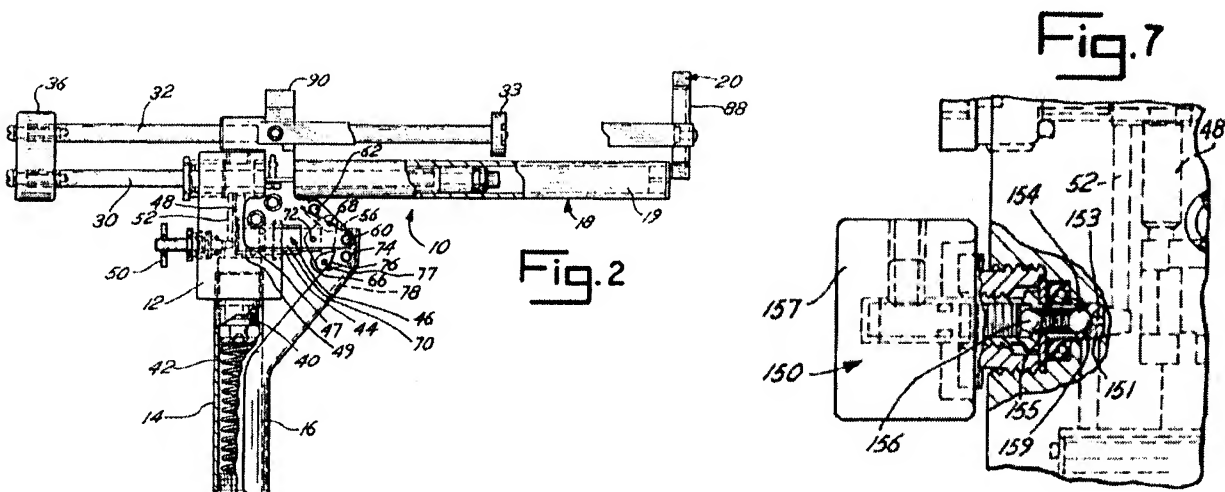
Please consider the following remarks in support of the concurrently filed Pre-Appeal Brief Request for Review.

1. Claim Rejections – 35 U.S.C. §102:

A. The Dumelle reference fails to disclose a manually operable actuator selectively releasing pressure on said fluid within a conduit by releasing at least a portion of said fluid out of the conduit and external to the fluid source as recited by independent claims 1 and 19.

Applicants submit that there is clear error with respect to the rejection of claims 1 and 19 as being anticipated by U.S. Patent No. 5,411,180 to Dumelle (“Dumelle”). Claim 1 recites in part a “manually operable actuator selectively releasing pressure on said fluid within a conduit by **releasing at least a portion of said fluid** out of the conduit and **external to the fluid source**.” (emphasis added). Similarly, claim 19 recites in part a “manually operable actuator positioned at a distal end of the housing selectively releases pressure on said fluid within the connecting tube by **releasing at least a portion of said fluid** out of the connecting tube and **external to the fluid reservoir**.” (emphasis added). Thus, claims 1 and 19 clearly recite a manually operable actuator that selectively releasing pressure on said fluid within a conduit by releasing at least a portion of said fluid external to the fluid source.

Referring to Figs. 2 and 7 reproduced below, the Office identified reservoir 14 and regulator assembly 150 as corresponding to the claimed fluid source and manually operable actuator, respectively.



In pertinent part, the cited portions disclose that:

[i]n FIG. 7 there is illustrated a modified pressure regulator assembly. The on-off valve 50 is replaced by a pressure relief regulator assembly 150 that includes a valve stem 151 for closing passage 52. Stem 151 has a passage 153 therein closed by a ball 154. The ball 154 is urged by a spring 155 to a position closing passage 153. If the pressure in passage 153 acting against the ball 154 exceeds a predetermined value, the ball 154 will move to the left as viewed in FIG. 7, permitting fluid to flow from passage 52 into passage 153 and through passage 159 for return to the reservoir 14. . . . Spring 155 may be adjusted for different release pressure levels by rotation of handle 157 or different springs may be used to obtain different predetermined pressure relief levels to permit fluid to bleed back to reservoir 14 when a predetermined pressure is attained in cylinder 19 and passage 52.

Dumelle, col.4 ll.14-35 (emphasis added).

Based on the foregoing, Dumelle clearly discloses that regulator assembly 150 is structurally configured to return fluid to reservoir 14 when the pressure of the fluid against ball 154 exceeds a predetermined value. Moreover, Dumelle does disclose that fluid returning or bleeding back to reservoir 14 utilizes passages 153 and 159. However, Dumelle very clearly discloses that such fluid is returned or bled back to reservoir 14. Thus, Dumelle does not disclose that regulator assembly 150 releases at least a portion of the fluid external to reservoir 14 because Dumelle clearly discloses that fluid is returned or bled back to reservoir 14. Therefore, Dumelle at least fails to disclose a “manually operable actuator selectively releasing pressure on said fluid within a conduit by releasing at least a portion of said fluid out of the

conduit and **external to the fluid source,**” as recited by claim 1.

In the Advisory Action, the Examiner alleges that “[t]he claims merely require [at] least a portion of the fluid to be released outside of the fluid source, in the device of Dumelle a small portion of working fluid is released out of the conduit 48 into conduits 153 and 159 external to the fluid reservoir 14.”

Advisory Action, p.1. Applicants respectfully disagree. As discussed above, Dumelle explicitly states that the fluid from passages 153 and passage 159 **returns to the reservoir 14.** In other words, passages 153 and 159 are structurally configured to **return the fluid to reservoir 14.** Because Dumelle discloses that passages 153 and 159 are structurally configured to return the fluid to reservoir 14, the Dumelle reference clearly does not disclose releasing fluid external to reservoir 14. Accordingly, Dumelle does not disclose “releasing at least a portion of said fluid . . . external to the fluid source,” as recited by claim 1.

Claim 19 recites “manually operable actuator positioned at a distal end of the housing selectively releases pressure on said fluid within the connecting tube by **releasing at least a portion of said fluid** out of the connecting tube and **external to the fluid reservoir.**” Accordingly, claim 19 is distinct from Dumelle for at least the same reasons discussed above with respect to claim 1.

Accordingly, Dumelle does not disclose all of the features recited by claims 1 and 19. Therefore, the rejection of claims 1 and 19 based on Dumelle is clear error.

2. Claim Rejection – 35 U.S.C. §103:

A. The Dumelle and Gallentine references fail to disclose or suggest a pressure release mechanism connected to said distal end of said housing means for selectively relieving pressure from said fluid in said conduit by releasing at least a portion of said fluid out of the conduit and external to the fluid source as recited by independent claim 21.

Applicants submit that there is clear error with respect to the rejection of claims 2-4, 9, 21-26, 28, and 29 as being unpatentable over Dumelle in view of U.S. Patent No 4,723,479 to Gallentine (“Gallentine”). Independent claim 21 recites “a pressure release mechanism connected to said distal end of said housing means for selectively relieving pressure from said fluid in said conduit by releasing at least a portion of said fluid out of the conduit and external to the fluid source.” As discussed above with respect to claim 1, Dumelle does not disclose these features of claim 21. The Gallentine reference does not cure these deficiencies. In that regard, the Gallentine reference is relied on for allegedly disclosing a flexible conduit connecting the pressurizing mechanism with the viscous fluid container and an air bleeder. Accordingly, even when combined, Dumelle and Gallentine do not disclose or suggest all of the features recited by claim 21.

Claims 22-26, 28, and 29 depend from and add additional features to independent claim 21. These dependent claims are distinct from the cited references for at least the same reasons discussed above with respect to independent claim 21. Therefore, the rejection of claims 21-26, 28, and 29 based on the combination of Dumelle and Gallentine is clear error.

Additionally, claims 2-4 and 9 depend from and add additional features to independent claim 1. As discussed above, Dumelle does not disclose all of the features of claim 1. The Gallentine reference does not cure these deficiencies. In that regard, the Gallentine reference is relied on for allegedly disclosing a flexible conduit connecting the pressurizing mechanism with the viscous fluid container and an air bleeder. Accordingly, even when combined, Dumelle and Gallentine do not disclose or suggest all of the features recited by claim 2-4 and 9. Therefore, the rejection of claims 2-4 and 9 based on the combination of Dumelle and Gallentine is clear error.

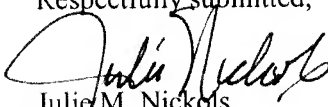
B. Dependent Claims

The Final Office Action rejected claims 17 and 18 under 35 U.S.C. §103 as being unpatentable over Dumelle in view of Gallentine in further view of U.S. Patent No. 4,250,887 to Dardik et al. (“Dardik”). Additionally, the Final Office Action rejected claims 16 and 20 under 35 U.S.C. §103 as being unpatentable over Dumelle in view of Gallentine in further view of U.S. Patent No. 5,015,233 to McGough et al. (“McGough”). Claims 16-18 depend from and add additional features to independent claim 1. Claim 20 depends from and adds additional features to independent claim 19. As discussed above, Dumelle does not disclose or suggest all of the features recited by claims 1 and 19. The Gallentine, Dardik, and McGough references do not cure these deficiencies. In that regard, Gallentine is relied on for allegedly disclosing a flexible conduit connecting the pressurizing mechanism with the viscous fluid container and an air bleeder. Furthermore, the Dardik reference is relied on for allegedly teaching a flexible tubing long enough to permit a user to be outside of a radiation field of a patient being imaged. Additionally, McGough is relied on for its alleged teachings with respect to a syringe with a plunger connected to a pressure pump and a working pressure range of up to 5000 PSI. Accordingly, these dependent claims are distinct from the cited references for at least the same reasons discussed above with respect to claims 1 and 19. Therefore, the rejection of claims 16-18 and 20 based on the combination of Dumelle, Gallentine, Dardik, and McGough is in clear error.

Conclusion

In view of the foregoing remarks, it is respectfully submitted that there is clear error with respect to the rejection of claims 1-4, 9, 16-26, 28, and 29. Accordingly, Applicants respectfully submit that this claim is in condition for allowance.

Respectfully submitted,

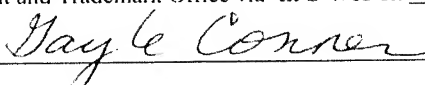

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Gayle Conner